

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 14th day of September 2009 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President	Cecil E. Leonard
	Hannibal Costa	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo
Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Durfee requested moving items A-3f, letter from Laura Epke and A-3g, July 09 Budget Reports to just before F-3, Use of Financial Advisors.

Councilor Lambert requested moving item A-4, Resolution Opposing Binding Arbitration just before G-1, Jan Bergandy, School Committee Chair.

Councilor Leonard made a motion, seconded by Councilor Roderick to approve the items on the Consent Agenda. Motion passed unanimously.

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes from August 24, 2009 Regular Council Meeting
- b. Approval of Executive Session Minutes from August 24, 2009 Council Meeting
- c. Approval of Special Meeting and Workshop on August 31, 2009
- d. Approval of Executive Session Minutes Sp Meeting August 31, 2009
- e. Approval of Workshop Minutes March 30, 2009

A-2-Receipt of Minutes from Various Board and Commissions:

- | | |
|--------------------------|-----------------------------------|
| a. Art's Council | d. Building Code Board of Appeals |
| b. Planning Board | e. Zoning Board of Review |
| c. Open Space Commission | |

A-3-Correspondence:

- a. Received From Friends of Tiverton Libraries – Fall 2009 News Letter, Notice for New Public Library Community Workshop September 23rd, Invitation to Simple Sunday Supper September 20th
- b. Received From City of Providence – Resolution Recognizing September as “Ovarian Cancer Awareness Month”
- c. Received From Town of Glocester – Resolution Urging Support for Carcieri v. Salazar Supreme Court Decision
- d. Received From Town of Portsmouth – Resolution Opposing Reinstatement of Toll on the Mt. Hope Bridge
- e. Received From Town of Middletown – Resolution to Enact Legislation Criminalizing Prostitution

A-5-Adoption of Proclamation for “Constitution Week” September 17 through 23rd

A-6-Approval of Tax Assessor Abatements

A-7-Distribution of Pocasset Hill Cemetery Handbook for Review, Comment and Approval on Sept 29th Meeting

A-8- Main Road Parking Input Hearing Tabled Until Additional Information Received

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

B-1-Fuel Circle Inc. d/b/a Seaside Gas – Request Tobacco Dealers License – Subject to Meeting All Legal Requirements

B-2-Krystle L. Oliveira d/b/a Common Cents – Request Holiday License – Subject to Meeting All Legal Requirements

APPOINTMENTS & RESIGNATIONS:

C-1-Adoption of Resolution Appointing Representatives to East Bay Energy Consortium

Garry Plunkett, Voting Member, Dennis Culberson, First Alternate, Noel Berg, Second Alternate

BIDS & REQUESTS FOR PROPOSALS:

D-1-DPW Director – Request Approval to Solicit Bids for Landfill Cover

D-2-DPW Director – Request Approval to Solicit Bids for Hydraulic Lift Gate

D-3-DPW Director – Request Approval to Solicit Bids for Mower/Brush Cutter Purchase

PUBLIC HEARINGS- ADVERTISED:

Tiverton Power, Inc. Attorney Richard A. Sherman – Proposed Amendment to the Town Zoning Map Continued From August 24th Council Meeting Public Hearing to be Continued to November 23rd

Councilor Durfee made a motion, seconded by Councilor Leonard to continue the Public Hearing to November 23, 2009. Motion passed unanimously.

FINANCIAL BUSINESS:

Councilor Roderick – Discussion of Handling Funds Relative to Bay Street Clean Up

a. Unseal Agreement with Plaintiffs in Corvello v. NE Gas and Town of Tiverton

b. Unseal Mutual Release

Councilor Roderick wanted to discuss the handling of funds received by the Town relative to the Bay Street clean up. Solicitor Teitz noted before the discussion can occur, a vote should be taken to unseal the relevant documents.

Councilor Roderick made a motion to unseal the Agreement with plaintiffs in Corvello v. NE Gas and Town of Tiverton and to unseal the Mutual Release. Seconded by Councilor Durfee motion passed unanimously.

Solicitor Teitz, pursuant to the agreement, plaintiff's attorneys and the Town both participated in the settlement and agreeing to release Southern Union and in return accepting environmental land use restrictions. Town received five hundred fifty thousand dollars to be held in a special account for removal and testing of contamination, sole discretion of Town Council and publicly published in an annual report. Councilor Leonard questioned whether the Council needed to pass a resolution to direct the Treasurer to establish a restricted account. Solicitor Teitz responded the Town Council has already agreed to hold money in restricted account, the second document is a release between the Town and Southern Union, essentially giving up all claims against the Town.

Councilor Roderick made a motion, seconded by Councilor Leonard to instruct the Treasurer to establish a restricted interest bearing account for Bay Street contamination funds. Motion passed 6-0-1, Councilor Costa abstained.

Councilor Roderick – Discussion Regarding Use of Financial Advisor

Councilor Roderick asked the Treasurer, Philip DiMattia, if the Town has a Financial Advisor and what role they play. Treasurer passed out to the Council a list of Financial Advisors, a Financial Advisory Summary from First Southwest Company, the schedule with regard to the annual audit and a copy of the contract with the auditor. Councilor Roderick asked about costs associated with the advisors. Treasurer affirmed some have fees and must maintain certain balances. Councilor Durfee noted First Southwest is the only underwriter in State of RI for RIPEC issues, advise on bond issues, Municap, Inc. gives an annual report on Starwood, don't do financial advising to Town. Bank of NY Mellon are trustees for Starwood. Asked the Treasurer; if beyond trust services do they render other services. Response was yes they can, but at a price.

Councilor Durfee noted the majority of advice comes from Citizens Bank and those costs are covered under a normal banking relationship and balance in general fund. Councilor Roderick asked how they steer funds to benefit the Town. Treasurer replied general funds are controlled through Citizen, can view on a daily basis what comes in and out, can make relevant decisions as to investment opportunities. Citizens gives direction in repo area

(federal paper) and provides investment services. Councilor Leonard, former Town Treasurer, noted repo is just a swap deal of federal paper. Councilor Lambert asked the Treasurer if the Town needed another financial advisor. Treasurer replied he could tap into all those sources. Councilor Lambert noted the Town has to rely on someone to make decisions, and does not see an argument the Town needs another financial advisor. Councilor Durfee noted, to get advice from people making money off you, questionable. Does the Town need an independent advisor? Councilor Lambert noted the Treasurer is supposed to be making these decisions. Councilor Roderick suggested looking at other areas that can serve us better. Councilor Leonard felt not up to Council to judge, up to citizens. Treasurer stated representative from Southwest would be at next Council meeting to discuss bond for Pocasset School.

Philip DiMattia, Town Treasurer

Tiverton Library Health Insurance Return of Excess Appropriation

The Tiverton Library Board of Trustees returned \$20,000 to the Town, from health benefits appropriations excess for F/Y 2008-2009. Councilor Leonard noted no cash was involved, just a budgetary appropriation.

FY 2009-2010 Overtime for Police and Fire Departments

Police Dept. overtime 23.3%, Fire Dept. 38.5 % of 09/10 budgets. T/A Goncalo again asked the Treasurer if encumbrances had been taken into account, as indicated at the last Council meeting. Overtime impact for this fiscal year \$76,000. Councilor Leonard noted in spite of the encumbrances the Town spends a lot of money on overtime, looking at a broader base problem with minimum manning, opportunities to address with collective bargaining. For the long term, the Council needs to give the Administrator a more realistic budget. Councilor Durfee asked the Treasurer what the point was of bringing up overtime that was discussed at the last Council meeting. When the Council gets the monthly reports on time they look at all the accounts. Treasurer disagreed, elected to act in a capacity separately from the Town Council.

President Bollin, the Council realizes overtime is an issue, have discussed with the Budget Committee, probably going to exceed the overtime numbers. Treasurer's goal was to show this was not a trend. Councilor Leonard noted under section 602 of the Charter, the Treasurer is charged with monitoring spending, so the Council needs to pass a more realistic budget.

Councilor Durfee asked when the Council would be getting the August reports, reports six weeks behind and questioned the July report with regard to abatements. In a revaluation year, the abatements are effectively money the Town depended on but will not come through. Noted a charge to the assessor and a credit offset in the Treasurer's report, effectively making abatements zero. Point is the Council needs to keep track of the abatements. Treasurer DiMattia spent a lot of time on how that should be represented and consulted with the auditors as to how to represent that to the general public and agreed these reports were not right. Treasurer asked the auditor, Paul Dansereau, to answer that question. President Bollin noted the abatements are not a fictitious number; they are a loss of anticipated revenues and at the end of the fiscal year; the General Fund decreases. Paul Dansereau, one of the auditors, at the request of the Treasurer appeared before the Council. Mr. Dansereau explained abatements are not part of revenue, not collected money, not recognized as revenue and not an offset to revenue, no income is recognized. Discussion followed about balance sheet and accounting entries.

Councilor Durfee suggested the auditor could guide the Treasurer as how to handle the entry. President Bollin noted in previous years there was an amount set aside but not this year. Councilor Leonard suggested process is an internal control and it would be simpler to tally abatements YTD and not worry about journal entries. Mr. Dansereau suggested using the Tax Assessor's software to generate monthly reports. Administrator Goncalo noted the Council would need a meeting during the year to discuss how to make up the difference. Town Clerk Nancy Mello noted uncollected taxes offset by previous year collected taxes. Mr. Dansereau noted, as auditors don't see it as a financial entry

Received From Laura Epke Requesting Council Obtain Report Clarifying Financial Position of Town as of 6/30/09

**Received From Treasurer DiMattia – July 09 Budget, Revenue & Carry Forward Reports
Budget Committee FY 2010 Revenue-Expenditure Reconciliation**

Councilor Durfee questioned the revenue report from July and why nothing was reported for back revenues. Treasurer responded they are usually reported, not on a monthly basis. Councilor Durfee asked about the break for the last two months, what happened to that cash and if it was received it should be in the statements. Treasurer's response was, still working on year-end, last year was not put in until at least December, don't have to bring forward every month. Resident Laura Epke questioned the July 31st bottom line; page 18 totals list loss of revenue, last line

of the revenue report, what estimated for revenue-matched expenses. Treasurer DiMattia asked Jeff Caron, Budget Committee Chair to explain to the Council why they do not have to match.

Treasurer addressed Laura Epke's letter, on August 24th presented the Council revenue and expense reports and indicated it did not represent a complete audit report. Asked what is financial report as of 6/30/09. Paul Dansereau provided an updated schedule of the audit. Contacted the Auditor General and associates in other towns about financial position as of 6/30. The Treasurer's position was this report will not be issued until complete. Resident Deb Pallasch had a question for the Treasurer. Councilor Leonard wanted to move ahead, out of order for a member of the audience. President Bollin allowed citizens to ask questions about finances of the Town, hopefully get answered and it ends. Ms. Pallasch was not questioning how long it takes, works as an auditor herself, concerned as to why the financial auditor would tell us the numbers. The auditor's job is to materially represent and report to the Town. Question is why are we relying on an independent auditor for the numbers.

Councilor Durfee asked based on revenue and expenditure reports where did the Town come out roughly for the year. Asked what was in our unrestricted and the Treasurer gave information that was incorrect. We were told we returned approximately \$752,000 to the General Fund. Questioned the School funds and the carryovers. Treasurer can't answer to this day and hasn't answered Treasurer said all payrolls have been paid and Town has a positive cash flow, schedule from the auditor, once complete, will give a better picture.

Budget Committee Chairman, Jeff Caron, appeared before the Council at the request of the Treasurer to explain the Revenue Reconciliation. Councilor Leonard referred to the Charter Section 602 (a) 1-assuring compliance with all applicable accounting standards and compliance, noted it was a folly to give out unaudited numbers. Maintain by Charter within the Treasurer's right to give answers whether the Council likes it or not. Not commenting whether figures are right, wrong or indifferent.

Chairman Caron briefly explained how the levy expenditures arrived. Wanted the numbers to reflect current revenue report. Expenditures minus revenues including difference of the school, the final levy calculation, took certification from the Assessor's office. In backing out anticipated revenue, it's \$81,000 higher than the certified docket. Councilor Durfee noted there should be some explanation about the excess on the report. Treasurer DiMattia noted these numbers would be in his revenue report. Councilor Costa made a motion to place on file and proceed with new business.

NEW BUSINESS:

Adoption of Resolution Opposing Binding Arbitration for Teacher Contracts

Jan Bergandy, Tiverton School Committee Chair – Proposed Changes to RIGL per Teacher's Contracts

School Committee Members, Chair Jan Bergandy and Sally Black appeared before the Council to ask for the Council's assistance in opposing binding arbitration for teacher's contracts. The School Committee officially took a vote to oppose with one abstention. Based on what is believed to be in this draft legislation, it will not prevent teachers from working to rule, does not consider the cap to the tax, the burden on taxpayers. We will be told how much to pay, takes power from local officials to decide financial components of our budget. Change in the State of RI retirement system impacted teachers. Here to ask Council join in opposition, some neighboring communities have passed resolutions opposition binding arbitration. School Committee Member Sally Black noted this is a very important issue, has looked at all sides, have to consider the welfare of the students, ability of the Town to pay, the 30/50 cap. Chair Bergandy's concern was to protect students and programs. Arbiters are lawyers, different communities value different programs. Not good for the students or the taxpayers. If hearings on this bill take place, asking for a member of the Council to appear with the School Committee and the local representatives to express discontent.

Councilor Arruda questioned whether the arbitrators could force the Town to go to or over the cap. Ms. Black had a rough draft of the act. Councilor Durfee wanted to see the actual legislation, although she supported a concept vote, did not want to vote without reading the legislation. Councilor Lambert called binding arbitration legal corruption.

Councilor Lambert made a motion, seconded by Councilor Costa to move in favor of the resolution. Councilor Costa suggested just keeping the word Town where it says City/Town, send copies to the Speaker of the House, the Senate President and to delete the word of, the last word in the last sentence.

Councilor Lambert amended his motion to include the changes. Seconded by Councilor Costa motion passed on a vote of 5-2, Councilors Bollin and Durfee opposed.

Councilor Leonard – Use or Disposition of Ranger and Nonquit Schools

Councilor Leonard opened the discussion on the alternatives for the Old Ranger and Nonquit Schools. Suggested first step to have an appraisal done.

Councilor Leonard made a motion, seconded by Councilor Roderick to get a Request for Proposals and to include rental of properties as part of that request. Motion passed unanimously.

Councilor Leonard made a motion to schedule a workshop, seeking action and public input for use of the schools. Councilor Costa saw no need for another meeting, could be handled at a regular Council meeting. President Bollin suggested the Council needs time to advertise for public input, November 30th is being held for a workshop.

Councilor Leonard made a motion, seconded by Councilor Arruda to schedule a workshop on November 30th to seek public input for Ranger and Nonquit schools. Motion passed 5-1-1, Councilor Costa opposed, Councilor Lambert abstained (no opinion).

Councilor Roderick – Discussion Regarding CDBG Grant Process

Councilor Roderick questioned the process regarding the CDBG Grant Process. Did some research, most cities and towns seek their own grants; this year the second party got the bulk of the funds.

Councilor Roderick made a motion, seconded by Councilor Costa to have the Town Administrator look into the process for the CDBG funds and how it can be handled within the Administration. Motion passed unanimously.

Town Administrator /Peter Moniz – RIDOT Signage for Stafford and Crandall Roads

Administrator Goncalo indicated last May the DOT had concluded a “shared” road situation, willing to go forward as long as the Town was in agreement. Received several emails in favor of the signage. Councilor Arruda asked the signage include single rider rules, has seen 2 and 3 riding abreast. Councilor Costa inquired about current problems. Peter Moniz noted the signs are a safety reminder, numerous people jog and bike on these roads. This gives public awareness.

Councilor Durfee made a motion seconded by Councilor Leonard to delegate/authorize the Administrator to communicate with DOT to provide signage for Shared Road. Motion passed 6-0-1, Councilor Costa abstained.

DPW Director – Permission to Advertise for Public Hearing to Amend Fee Resolution to Include Fee for Couch and Stuffed Chair Recycling

Councilor Durfee made a motion, seconded by Councilor Roderick to advertise for a Public Hearing to amend fees for couch and stuffed chair pickup. Motion passed 6-0-1, Councilor Costa abstained. Clerk to advertise as soon as possible or the second meeting in October.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS

1. Flu clinic Sept. 24th, 9am-12pm at the Senior Center for regular flu vaccine.
2. January 2010 a Police Dept, Citizens Police Academy class starts, more details to follow.
3. Juvenile Hearing Board-successful, some 2 dozen cases handled, positive feedback.
4. Forty new homes are in progress of being built.
5. There were 85 tax appeals, resolved 42, produced \$61,600 in abatements.
6. Sent out 1,483 delinquent tax notices, 1st quarter payments.
7. There are 96 properties on the tax sale list.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Solicitor Teitz handed out copies of a Request for Reconsideration of Letter of Recommendation issued by U.S.Coast Guard for the Towns of Tiverton and Bristol regarding Weaver’s Cove Energy. The Town has filed an appeal and request for consideration with the Captain of the Port regarding transit plan for LNG offshore berth in middle of Mt. Hope Bay.

CLOSED EXECUTIVE SESSION

- 1. Town Administrator – 42-46-5(a)(1) Personnel Matters – Fire Chief Lloyd**
- 2. Town Solicitor - Litigation – 42-46-5(a) (2)**
- 3. Town Solicitor – 42-46-5(a)(6) - Prospective Business or Industry**

Councilor Durfee made a motion, seconded by Councilor Arruda to enter into Executive Session pursuant to 42-46-5(a)(1)-Personnel. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to remain in Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to further remain in Executive Session pursuant to 42-46-5(a)(6)-Prospective Business or Industry. Motion passed unanimously.

The Council entered into Executive Session at approximately 9:45 p.m.

The Council returned to Open Session at approximately 10:20p.m.

OPEN SESSION:

Council President Bollin announced formal action was taken in Executive Session.

Councilor Durfee motioned to seal the minutes of Executive Session, seconded by Councilor Arruda. Motion passed unanimously.

ADJOURNMENT:

Councilor Durfee made a motion, seconded by Councilor Arruda to adjourn. Motion passed unanimously.

The meeting adjourned at approximately 10:25 p.m.

A True Copy. ATTEST: _____
Nancy L. Mello, Town Clerk